GOVERNMENT OF ANDHRA PRADESH

ABSTRACT

Tribal Welfare Department – Appeal petition filed by Smt.K. Balabai, W/o S.A.Hussain, C.T.O.(Rtd.,), SPSR Nellore, against the proceedings Rc. C5 (M) 4161/ 93, dated 09.10.2004 of the District Collector, Nellore - under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (AP Act No. 16/ 1993) – Appeal Petition dismissed – Orders -Issued.

TRIBAL WELFARE (CV2) DEPARTMENT

G.O.MS.No. 104 **Dated: 12-11-2016**

Read the following:

1. Proceedings of the Dist. Collector, Nellore, Rc.C5(M) 4161/93, dated 09.10.2004.
2. Appeal Petition filed by Smt.K.Balabai, W/o S.A.Hussain, C.T.O. (Rtd.,), SPSR Nellore, before the Government on 26.10.2014.
3. Govt. Memo. No.10142/CV.2/2004, dt.06.12.2004.
4. Order of the Hon'ble High Court of A.P., Hyderabad in W.P. No.22709/2004, dated 15.12.2004.
5. Order of the Hon'ble High Court of A.P., Hyderabad in W.A. No.2192/2004, dated 30.12.2004.
6. From the District Collector, Nellore, Lr.Rc.No C5 (M) 2327/2004, dt.07.01.2005.
7. Govt. Memo. No.10142/CV.2/2004, dt.07.06.2006, 22.09.2006, 11.10.2006 & 05.06.2007.
8. Govt. Letter No.10142/CV.2/2004, dt.14.08.2008 & 10.06.2010.
9. Govt. Memo. No.10142/CV.2/2004, dt.31.08.2013.
10. Order of the Hon'ble High Court of A.P., Hyderabad in W.P. No. 15899/2015, dated 07.07.2015.
11. Govt. Memo. No.10142/CV.2/2004, dt.07.08.2015, 16.03.2016 & 23.04.2016.

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ORDER:

In the reference 1st read above, the District Collector, Nellore has issued orders canceling the ST - Lambadi Caste Certificate obtained from the then Tahsildar, Nellore in 1993 by Smt. K.Balabai, W/o S.A.Hussain, C.T.O.(Rtd.,), SPSR Nellore District.

2. In the reference 2nd read above, Smt. K.Balabai, W/o S.A.Hussain has filed an Appeal Petition before the Government, against the said Proceedings of the District Collector, Nellore. After examining the said Appeal Petition, Government have admitted the Appeal Petition & duly rejecting the stay petition and called for the parawise remarks and connected records from the District Collector, Nellore in the reference 3rd read above.

3. In the reference 4th read above, Smt. K.Balabai, W/o S.A.Hussain has filed W.P. No. 22709/2004, before the Hon'ble High Court, against the proceedings of the District Collector, Nellore, dated 09.10.2004 & Govt. Memo No. 10142/ CV.2/ 2004, dated 06.12.2004. In the reference 4th read above, the Hon'ble High Court of Andhra Pradesh, while disposing the said WP on 15.12.2004 has issued stay orders on the Govt. Memo No.10142/CV.2/2004, dated 06.12.2004 and directed the Government to dispose of the Appeal within a period of four months from the date of receipt of the order.

4. In the reference 5th read above, Smt. K.Balabai, W/o S.A.Hussain has filed W.A. No. 2192/2004, before the Hon'ble High Court, against the order of the Hon'ble High Court in W.P. No.22709/2004, dated 15.12.2004. In the reference 5th read above, the Hon'ble High Court of Andhra Pradesh, while disposing the said WP on 30.12.2004 has issued stay orders on the proceedings of the District Collector, dated 09.10.2004, till the disposal of the statutory appeal before the Government. Duly following the procedure prescribed for finalization of the Appeal

[P.T.O]

Petition in the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993, notices have been issued to the Appellant, through his Counsel, and the matter has been examined by the Appellate Authority. Due to several administrative reasons the Appellate Authority has taken time for the disposal of the said Appeal Petition.

5. In the reference 6th read above, the District Collector, Nellore has furnished the Parawise remarks and the connected records on the said Appeal Petition filed by Smt. K.Balabai, W/o S.A.Hussain.

6. The said Appeal Petition has been posted for hearing on 19.06.2006, 29.09.2006, 28.10.2006, 14.06.2007, 23.08.2008, 25.06.2010 & 12.09.2013 and the same has been informed to the Appellant and the Counsel for the Appellant in the references 7th to 9th read above, and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to furnish in the matter and that the case will be decided based on the material available with the Government

7. Smt. K.Balabai, W/o S.A.Hussain has filed W.P. No. 15899/2015 before the Hon'ble High Court, against the Government in pursuance to the Appeal filed by the Petitioner in Govt. Memo No.10142/CV.2/2004, against the cancellation of the Caste Certificate by the District Collector, Nellore, dated 09.10.2004.I n the reference 10th read above, the Hon'ble High Court of Andhra Pradesh, while disposing the said WP on 07.07.2015 has directed the Government to conclude the appeal proceedings and to pass appropriate orders on the appeal dated 26.10.2004 filed by the petitioner against the orders of the District Collector, dated 9.10.2004, vide proceedings Rc.No.C5(M)4161/93 within a period of two months from the date of receipt of this order, failing which, all the proceedings initiated against the petitioner herein with regard to her caste certificate shall stand automatically cancelled and further action shall be taken by the respondents herein for settlement of terminal benefits of the petitioner. But due to several administrative difficulties the matter could not be disposed before the said date. However, after giving notices from time to time to the Appellant through his Counsel the matter has been examined by the Appellate Authority.

8. Based on the directions of the Hon'ble High Court, the said Appeal Petition has been posted for hearing on 22.08.2015, 09.04.2016 & finally on 14.05.2016 and the same has been informed to the Appellant and the Counsel for the Appellant and they were requested to attend for the hearing along with all Documentary Evidences/ Certificates in support of the community claim, failing which, it will be construed that there is no explanation what-so-ever to offer in the matter and the matter will be decided based on the material available with the Government in the reference 11th read above. The Appellant and Counsel for the Appellant have not attended the said hearing schedule.

9. After hearing both the sides and on perusal of the records/ the copies of evidences/academic record/ grounds filed by the Appellant / the parawise remarks submitted by the District Collector, Nellore and proceedings of the District Collector, Nellore dated 09.10.2004, the Appellate Authority has observed as follows:

I. The Appellant in her grounds for appeal has stated that she is the daughter of Sri Rustum Singh, who belongs to the ST-Lambadi community and native of Mulapet, Nellore District, and her entire school record shows that she belongs to the ST-Lambadi caste.

II. Further, she has stated that even the present complainant i.e. Mr. Balaji Singh, has not came forward to depose in the presence of the Appellant stating that she belongs to Bondili community, which falls in the O.C. Category.

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III. Before the DLSC on 30.09.2004, the Appellant has stated that her father's name is Rustum Singh and her mother's name is Jyothi Bai, and she belongs to the "Lamabdi" community. Further, that she does not know anything about her grandfather and grandmother (father and mother side) and their ancestors.

IV. The DLSC in its findings has observed that the M.R.O., Nellore has reported that Smt. K.Balabai, W/o S.A.Hussain, is a resident of Mulapet, Nellore Town and that his local enquiry reveals that Smt. K.Balabai originally belongs to "Bondili" Caste (OC) and people belonging to the same community are also called as Rajputs. Further, that he has verified the caste details at the CAM High School, Moolapet, Nellore which is the local area of the incumbent, and has found that the surnames of the 'Khambham' belongs to 'Bondili' caste. Further, he has reported that there are no Lambadi familes in Nellore town and that the Appellant and her family members belongs to the 'Bondili' community and he has also reported that upon verification of the Birth and Death Registers of Nellore Municipality, it is found that the surname of Kambham persons is found to be of the Bondili/Rajput community only.

V. Before the DLSC, the Appellant has deposed on several occasions that her father Sri Kambam Rustum Singh belongs to the Lambadi community and on other occasions she has stated that he belongs to the Bondili community. However, the Appellant could not say anything conclusively about her mother's caste and has mentioned on some occasions that she belongs to the Lambadi community & a major inconsistency in her oral deposition. Further, when the DLSC Chairman repeatedly questioned the Appellant, she has informed that she doesn't know anything about her blood relative/ relatives, family relations and Lambadi families and which shows that the Appellant is intentionally suppressing the real facts.

VI. The Government, in principle, is very liberal in receiving documents from the parties and considering the same even at the time of arguments. In order to ensure the principals of natural justice, the Appellate Authority has granted several adjournments to the Appellant to produce any recorded evidence in support of her ST-Lambadi community claim for substantiation of her case, but, the Appellant has not produced any relevant documents/material in support of her "ST-Lambadi" community claim before the Appellate Authority at the time of hearing excepting her school record. However, the school record does not have evidentiary value of a conclusive nature and it cannot be given any weightage on it's own, as it is recorded solely based on the declaration given by the parents of the Appellant.

VII. Further, the Appellant has failed to prove that the 'Kambam' (surname) people or her parents as belonging to the ST-Lambadi community even though the Government gave several opportunities to her. Hence, the Government is of the considered view that the appellant obtained the Caste Certificate fraudulently and the cancellation of the ST-Lambadi caste of the Appellant by the District Collector is perfectly valid and the same does not warrant any interference in this Appeal.

VIII. As per section 6 of Act 16 of 1993, the burden of proof lies on the Appellant and in the instant case, the Appellant has failed to produce any recorded documentary evidence in support of her claim.

11. In view of the several reasons recorded in the paras supra, the Government, in exercise of the powers conferred under Section 7(2) of the Andhra Pradesh (Scheduled Castes, Scheduled Tribes and Backward Classes) Regulation of Issue of Community Certificates Act 1993 (Act No16 of 1993), decide that the Appeal Petition filed by Smt. K.Balabai, W/o S.A.Hussain does not deserve any interference and

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hence, the Proceedings of the District Collector, Nellore issued vide Rc. C5(M) 4161/93 dated 09.10.2004 is hereby upheld and the Appeal Petition filed by Smt. K.Balabai, W/o S.A.Hussain is hereby dismissed.

12. The District Collector, SPSR Nellore directed to take the necessary consequential action in the matter.

13. The records (containing Rc.C5(M)4161/93, dated 09.10.2004, pages 254 CF + 21 NF) received from the District Collector, SPSR Nellore through 6th read above, are returned herewith in original to the District Collector, SPSR Nellore and he is requested to acknowledge the receipt of the same, immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

R.P.SISODIA
PRINCIPAL SECRETARY TO GOVERNMENT

To

The District Collector, SPSR Nellore (w.e)
(with original records) (BY RPAD)

Smt. K. Bala Bai, W/o S.A. Hussain,
Plot No.6&7, Kresent Park,
Mainroad, Madiraja Gudur,
SPSR Nellore Distirct-524346.
Sri P.V. Ramana, Advocate, Flat No.1,
Banjara Sangeet Apartment, Kapadia Lane,
Hyderabad-500082.

The Revenue (C.T.) Department, A.P., Amaravathi

The Commissioner of Commercial Taxes, A.P., Amaravathi.

Copy to:
The Director, TCR & TI, A.P., Hyderabad.
The PS to Minister(SWE &TWE).
The PS to Prl. Secretary (TW)

// FORWARDED:: BY ORDER //

SECTIONOFFICER